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Filing date: **05/21/2012**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92053426
Party	Plaintiff Bachmann Industries, Inc.
Correspondence Address	ROBERTA JACOBS-MEADWAY ECKERT SEAMANS CHERIN & MELLOTT LLC 50 SOUTH 16TH STREET, TWO LIBERTY PLACE 22ND FLOOR PHILADELPHIA, PA 19102 UNITED STATES RJacobsMeadway@eckertseamans.com, MBoesenhofer@eckertseamans.com, JBae@eckertseamans.com; blabutta@eckertseamans.com
Submission	Motion to Compel Discovery
Filer's Name	Roberta Jacobs-Meadway
Filer's e-mail	rjacobsmeadway@eckertseamans.com, blabutta@eckertseamans.com
Signature	/Roberta Jacobs-Meadway/
Date	05/21/2012
Attachments	PETITIONER'S MOTION TO COMPEL (M1045419).PDF ( 48 pages )(1389295 bytes )

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

<hr/>	:	
BACHMANN INDUSTRIES, INC.,	:	
Petitioner,	:	
v.	:	Cancellation No.: 92053426
SCIENTIFIC TOYS, LTD.,	:	
Respondent.	:	
<hr/>	:	

**PETITIONER'S MOTION TO COMPEL AND  
ACCOMPANYING MOTION TO SUSPEND**

Petitioner Bachmann Industries, Inc. ("Bachmann"), through its undersigned counsel and pursuant to Fed. R. Civ. P. 33, 34, and 37, and 37 CFR § 2.120(e), hereby moves the Board to enter an order requiring Respondent Scientific Toys, Ltd. ("Scientific") to supplement its responses to Bachmann's Second Set of Interrogatories and First Requests for Production, and provide responses to Bachmann's Second Set of Interrogatories and Second Requests for Production. Bachmann concurrently moves to suspend these proceedings pending the Board's disposition of the motion to compel. The following information, arguments and exhibits are submitted in support of these motions.

**I. MOTION TO COMPEL**

**A. Relevant Facts**

On April 18, 2011, Bachmann served its First Set of Document Requests and First Set of Interrogatories on Scientific (copies attached as composite Exhibit A) (the "April 18<sup>th</sup> discovery"). Scientific provided written responses on June 9, 2011. On June 13 and 24, and

August 23, 2011, Bachmann wrote to Scientific and outlined certain deficiencies in the responses, and requested supplementation, including production of all responsive documents (copies attached as composite Exhibit B). On August 25, 2011, Scientific produced certain responsive documents, but did not otherwise supplement its responses to the April 18<sup>th</sup> discovery.

On October 27, 2012, Bachmann served its First Requests for Admissions, Second Set of Document Requests, and Second Set of Interrogatories on Scientific (copies attached as composite Exhibit A) (the “October 27<sup>th</sup> discovery”). On November 11, 2011, Bachmann filed its motion for summary judgment (Dkt. 13), and these proceedings were suspended. Scientific had not, as of the filing of the motion for summary judgment, responded to any of the October 27<sup>th</sup> discovery.

On April 3, 2012, the Board denied summary judgment and these proceedings were resumed (Dkt. 31). On April 5, 2012, Bachmann wrote to Scientific as a reminder that Bachmann had yet to receive responses to the October 27<sup>th</sup> discovery (copy attached as composite Exhibit C). On April 6, 2012, Bachmann served its Second Requests for Admissions on Scientific. At the same time, Bachmann also requested that Scientific supplement its responses to the April 18<sup>th</sup> discovery in a timely manner (copy attached as composite Exhibit C).

On May 11, 2011, Scientific served its responses to Bachmann’s First and Second Requests for Admissions. At the same time, Scientific requested Bachmann’s consent to a two-month stay of these proceedings. On May 14, 2012, Bachmann declined to consent to such a suspension until Scientific responded fully to the April 18<sup>th</sup> and October 27<sup>th</sup> discovery, and on that day, and again on May 16, asked Scientific to provide its responses (copy of correspondence attached as composite Exhibit D).

As of today's date, Scientific has yet to respond to Bachmann's Second Set of Document Requests and Second Set of Interrogatories, or to supplement its responses to Bachmann's First Set of Document Requests and First Set of Interrogatories.

**B. Argument**

A party is entitled to obtain "discovery regarding any nonprivileged matter that is relevant any party's claim or defense." Fed.R.Civ.P. 26(b)(1); *see also* TBMP 402.01. "Relevant information need not be admissible at the trial if the discovery appears reasonably calculated to lead to the discovery of admissible evidence." *Id.* "Each party has a duty [] to make a good faith effort to satisfy the discovery needs of its adversary." Fed. R. Civ. P. 26(g); *see also* TBMP 402.01. This includes a duty to supplement its response in a timely manner if the response is incomplete. Fed. R. Civ. P. 26(e)(1); TBMP 408.03. In circumstances where a party fails to fully respond to an interrogatory or a request for production, the requesting party is entitled to move the Board for an order compelling disclosure or discovery, provided that the it has made a good faith attempt to resolve the issue without Board intervention. 37 CFR § 2.120(e).

Bachmann's April 18<sup>th</sup> discovery and October 27<sup>th</sup> discovery was limited to information, documents, and things that were nonprivileged and relevant to Bachmann's claims against Scientific. Although Scientific responded to the April 18<sup>th</sup> discovery, its responses appeared to be incomplete, and Bachmann has repeatedly requested that such responses be supplemented. And Scientific provided no responses or objections at all to the October 27<sup>th</sup> discovery, despite the fact that Bachmann has repeatedly requested those overdue responses, most recently one (1)

week ago.<sup>1</sup> Scientific's failure to fully respond to all outstanding requests for discovery has prejudiced Bachmann, and has delayed these proceedings and the ultimate resolution of this dispute. Bachmann is unable to appropriately prepare its pretrial disclosures – currently due by May 24, 2012 – without Scientific's full responses to all outstanding discovery.

For these reasons, Bachmann respectfully requests that the Board order Scientific to immediately supplement its responses to Bachmann's Second Set of Interrogatories and First Requests for Production, and respond to Bachmann's Second Set of Interrogatories and Second Requests for Production, absent which Scientific be precluded from relying on any such information, documents, or things which were properly sought in Bachmann's discovery requests but were not included in any response thereto. *See* 37 CFR § 2.120(g).

### **III. MOTION TO SUSPEND**

Pursuant to 37 CFR § 2.120(e)(2), Bachmann respectfully requests that the Board suspend these proceedings pending its disposition of this motion to compel.

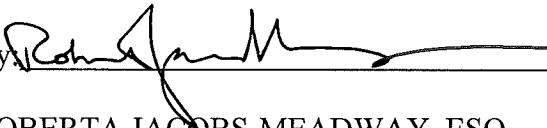
### **IV. CERTIFICATION**

Counsel for Bachmann hereby certifies that it has made a good faith effort by correspondence to resolve with counsel for Scientific the issues presented in the motion and has been unable to reach agreement.

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<sup>1</sup> Scientific's failure to timely respond to the October 27<sup>th</sup> discovery results in the waiver of all potential objections. Fed.R.Civ.P. 33(b)(2) and 34(b)(2)(A) (a party has 30 days to respond and/or object to interrogatories and requests for production); *Pitts v. Francis*, 2008 U.S. Dist. LEXIS 41894 (N.D. Fla. 2008) (when a party fails to timely object to interrogatories, production requests, or other discovery efforts, the objections are deemed waived, including those based on privilege or work product); *Thielen v. Buongiorno USA, Inc.*, 2007 U.S. Dist. LEXIS 8998 (W.D. Mich. Feb. 8, 2007) (the general rule is that failure to object to discovery requests within the thirty days constitutes a waiver of any objection).

Date: May 21, 2012

By 

ROBERTA JACOBS-MEADWAY, ESQ.

JAY K. MEADWAY, ESQ.

Eckert Seamans Cherin & Mellott, LLC

Two Liberty Place

50 S. 16<sup>th</sup> Street, 22<sup>nd</sup> Floor

Philadelphia, PA 19102

Phone: 215-851-8522

E-Mail: [rjacobsmeadway@eckertseamans.com](mailto:rjacobsmeadway@eckertseamans.com)

**ATTORNEYS FOR PETITIONER**

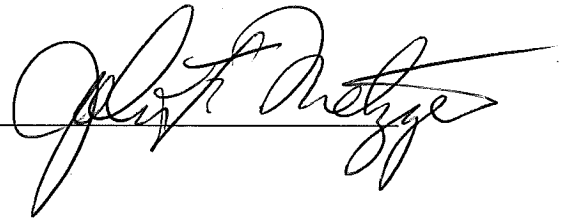
## CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of Petitioner's Motion to Compel and Accompanying Motion to Suspend was served on the attorney of record in this matter via electronic mail and Federal Express Overnight mail on the date indicated below.

Chester Rothstein  
Neil Zipkin  
Amster Rothstein & Ebenstein LLP  
90 Park Avenue  
New York, NY 10016  
crothste@arelaw.com  
nzipkin@arelaw.com

Date: May 21, 2012

By: \_\_\_\_\_

A handwritten signature in black ink, appearing to read "Chester Rothstein", written over a horizontal line.

# **EXHIBIT A**



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

BACHMANN INDUSTRIES, INC.,	:	
Petitioner,	:	Cancellation No. 92053426
	:	
v.	:	Registration No. 3,567,168
	:	
SCIENTIFIC TOYS, LTD.,	:	
Respondent.	:	

**PETITIONER'S FIRST SET OF INTERROGATORIES TO RESPONDENT**

Bachmann Industries, Inc. ("Petitioner"), by counsel and pursuant to Trademark Rule 2.120 and Fed. R. Civ. P. 33, hereby requests that Respondent, Scientific Toys, Ltd. ("Respondent"), answer the following Interrogatories in writing and under oath, subject to the penalties of perjury, within thirty (30) days of the date of service hereof.

The Interrogatories shall be answered in accordance with the Instructions and Definitions set forth below. The full text of Instructions and Definitions shall be deemed incorporated by reference into each Interrogatory.

**INSTRUCTIONS**

1. These Interrogatories are continuing in nature and any information obtained, discovered or formulated by you subsequent to your Answers hereto, which would have been responsive if known or discovered or formulated by you at the time your Answers hereto were given, shall be furnished in writing to Petitioner as soon as such information becomes available.
2. Furnish all information available to you as of the date of your Answers to this First Set of Interrogatories, including that obtained by or in the possession of your attorneys. If you are unable to answer an interrogatory fully and completely, after exercising due diligence

to secure the information necessary to answer such interrogatory to the fullest extent possible, specify the extent of your knowledge and your inability to answer the remainder, setting forth the efforts you made to obtain the requested information.

3. If the identify of any individual or entity other than a named party to this proceeding is sought or given, supply the full name, business address (or, if unknown, the home address) and telephone numbers of each, including said information for any of your employees, agents, attorneys, servants and representatives, not parties hereto, who are mentioned herein. For any individual or entity so identified, give his, her, or its relationship, if any, to you.

4. With respect to any conversations or discussions with anyone whom you mention in the Answers hereto, give the name(s) of the individual(s) with whom such conversations or discussions took place, and the date and location, by state and city, of said conversations or discussions.

5. The information requested herein is intended to include all knowledge and information of Respondent, his agents, legal representatives, its predecessor(s), if any, as well as its divisions, affiliates, parent and subsidiary entities, both controlled and wholly-owned, all related companies (as defined by 15 U.S.C. § 1127), and the past and present officers, directors, employees, representatives, attorneys and other personnel thereof.

6. If you object to any interrogatory or interrogatory subpart, or otherwise withhold responsive information because of the claim of privilege, work product, or other grounds:

(a) Identify the interrogatory question and subpart to which objection or claim of privilege is made;

(b) State whether the information is found in a document, oral communication, or in some other form;

(c) Identify all grounds for objection or assertion of privilege, and set forth the factual basis for assertion of the objection or claim of privilege;

(d) Identify the information withheld by description of the topic or subject matter, the date of communication, and the participants; and

(e) Identify all persons having knowledge of any facts relating to your claim of privilege.

7. If you object to any portion of an interrogatory, explain your objection and answer the remainder.

8. If you cannot supply precise information, state your best estimate or approximation (including your best approximation of date by reference to other events, when necessary), and designate the response as an estimate or approximation.

9. If you are unable to comply fully with any Request herein, comply to the extent possible and explain why full compliance is not possible.

10. If any requested document or thing is unavailable because it has been destroyed, identify it (for documents, by date, author, addressee, signatory, subject and length); state when it was destroyed and why; and identify the person who ordered it destroyed.

11. All Requests are directed to material in your possession, custody or control, or within the possession, custody or control of your agents, servants, employees, related companies and attorneys. They are also directed to those firms, corporations, partnerships, or trusts that you control, and to material in the possession, custody or control of employees, agents, next friends, trustees, guardians and representatives of such entities.

12. Any requested material that is withheld on the basis of a claim of privilege, work product, or any other ground is to be identified in writing by title, addressee, addresser, date, topic covered, and length. Additionally, Respondent shall provide a statement of the ground alleged for withholding each such document and shall identify all persons who have or have had possession, custody, or control of the document (or any portions thereof).

13. These Requests are deemed to be continuing. Your attention is also called to Rule 26(e)(2) of the Federal Rules of Civil Procedure, which provides:

A party is under a duty seasonably to amend a prior response to an interrogatory, request for production, or request for admission if the party learns that the response is in some material respect incomplete or incorrect and if the additional or corrective information has not otherwise been made known to the other parties during the discovery process or in writing.

#### **DEFINITIONS**

As used herein, the following terms have the following definitions:

14. “Petitioner” means Bachmann Industries, Inc., its agents, legal representatives, predecessor(s), assigns, as well as its divisions, parent and subsidiary entities, affiliates, any other related company (as defined by 15 U.S.C. § 1127), and its officers, directors, employees, and agents.

15. “Respondent” or “you” means Respondent Scientific Toys, Ltd., and the employees, agents, officers, directors, legal representatives, predecessor(s), assigns, as well as any affiliates, any other related company (as defined by 15 U.S.C. § 1127), and every other entity through which the Respondent claims the right to use, or plans to use, the mark as defined herein.

16. “Person” or “persons” shall mean any individual, association, partnership, corporation, firm, organization, or legal or business entity.

17. “Respondent’s Mark” means the mark EZTEC.

18. “Mark” includes trademark, service mark, collective mark, certification mark, logo and trade name as these terms are defined in Section 45 of the Lanham Act, 15 U.S.C. § 1127.

19. “Document” or “writing” means every original and every non-identical copy of any original of all mechanically written, handwritten, typed or printed material, electronically stored data, microfilm, microfiche, sound recordings, films, photographs, slides, and other physical objects of every kind and description containing stored information, including, but not limited to, all transcripts, letters, notes, memoranda, tapes, records, telegrams, periodicals, pamphlets, brochures, circulars, advertisements, leaflets, reports, research studies, test data, working papers, drawings, maps, sketches, diagrams, blueprints, graphs, charts, diaries, logs, agreements, contracts, rough drafts, analyses, ledgers, inventories, financial information, books of accounts, understandings, minutes of meetings, minute books, resolutions, assignments, computer printouts, purchase orders, invoices, bills of lading, written memoranda or notes of oral communications, and other tangible things of whatever nature.

20. When referring to documents, the term “identify” shall mean to provide, to the extent known: the (i) type of documents; (ii) general subject matter; (iii) date of the document; (iv) name or title (or, if none, to otherwise describe) of the document; and (v) author(s), addressee(s) and recipient(s) of the document.

21. “Communication” or “communications” means all meetings, conversations, conferences, discussions, correspondence, messages, telegrams, telefax, mailgrams, and all oral and written expressions or other occurrences whereby thoughts, opinions or data are transmitted between two or more persons.

22. “Describe” means to state with specificity all facts, including but not limited to time, comprising or pertaining to such facts, thing, condition, action or event, and to identify all persons involved in such fact, thing, action or event.

23. “Oral communication” means any verbal conversation or other statement from one person to another, including but not limited to any interview, conference, meeting or telephone conversation.

24. “Refer,” “referring to,” “relate,” or “relating to” means having a legal, factual or logical connection, relationship, correlation, or association with the subject matter of the Request.

25. Words of gender shall be construed as including all genders, without limitation.

26. “Or” means “and/or” and words in the singular shall be construed to mean the plural or vice versa.

27. “United States” means the United States of America, its possessions, and territories.

28. In connection with this First Set of Interrogatories, all references to any individual, corporation, partnership or limited partnership shall be deemed to include not only the individual, corporation, partnership or limited partnership named, but also his, her, its or their employees, officers, directors, partners, principals, shareholders, attorneys, agents and representatives under the control of the entity or individual identified in the interrogatory.

### INTERROGATORIES

1. Identify the person most knowledgeable about:
  - (a) selection of Respondent's Mark
  - (b) use of Respondent's Mark in connection with toy trains
  - (c) promotion of Respondent's Mark in connection with toy trains
  - (d) trade channels for goods sold under Respondent's Mark
  - (e) sales of goods under Respondent's Mark
  - (f) sales of goods and marketing in the United States.
2. Describe in detail the process by which Respondent's Mark was selected.
3. Describe in detail all steps taken by or on behalf of Respondent to determine whether Respondent's Mark was available for use on or in connection with the goods identified in the registration which is the subject of this proceeding (hereinafter Respondent's Goods).
4. Identify all fonts and sizes Respondent's Mark appears in on Respondent's toy train products, product packaging, and promotional materials.
5. State the date of first use of Respondent's Mark in commerce in connection with each of Respondent's Goods.
6. Identify the first sale of toy trains bearing Respondent's Mark.
7. Identify locations where Respondent's toy trains are promoted under Respondent's Mark.
8. Identify the trade channels for each of Respondent's Goods sold under Respondent's Mark.
9. Identify five (5) representative customers for Respondent's Goods.
10. Identify each class of customer for Respondent's Goods.

11. Identify all promotional media used by Respondent to advertise or promote Respondent's Mark in connection with toy trains.
12. Identify Respondent's annual sales of each of Respondent's Goods.
13. Identify Respondent's annual advertising and promotional expenditures for Respondent's Mark by product category.
14. State whether Respondent's Goods are packaged or advertised or promoted with any other goods of Respondent and, if so, identify all such goods.
15. State whether Respondent's Goods are advertised or promoted with the goods of any third party and, if so, identify all such goods of the third party that are advertised or promoted with Respondent's Goods.
16. Describe in detail each occasion when anyone has inquired of Respondent whether Respondent has acquired Petitioner or any aspect of Petitioner's business or is otherwise related to Petitioner.
17. Identify each licensee or permitted user of Respondent's Mark.
18. Identify each advertising and public relations firm employed by Respondent to promote Respondent's Mark.
19. Identify each expert retained by Respondent to give evidence on Respondent's behalf in this proceeding.

Dated: 4/18/11

By: Tashia Bunch Henderson  
Roberta Jacobs-Meadway  
Tashia Bunch Henderson  
Eckert Seamans Cherin & Mellott, LLC  
1717 Pennsylvania Ave, NW  
12<sup>th</sup> floor  
Washington, DC 20006  
(202) 659-6675  
ATTORNEYS FOR PETITIONER



CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Petitioner's First Set of Interrogatories to Respondent was served on counsel for the Respondent on the date listed below via first class mail:

Chester Rothstein, Esquire  
AMSTER ROTHSTEIN & EBENSTEIN LLP  
90 PARK AVENUE  
NEW YORK, NY 10016  
UNITED STATES  
ptodocket@arelaw.com, crothstein@arelaw.com

Dated: 4/18/11

Tasha Buck Henderson

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

BACHMANN INDUSTRIES, INC.,	:	
Petitioner,	:	Cancellation No. 92053426
	:	
v.	:	Registration No. 3,567,168
	:	
SCIENTIFIC TOYS, LTD.,	:	
Respondent.	:	

**PETITIONER'S FIRST REQUEST FOR DOCUMENTS AND THINGS**

Petitioner, Bachmann Industries, Inc. ("Petitioner"), by counsel and pursuant to Trademark Rule 2.120 and Fed. R. Civ. P. 34, hereby requests that Respondent, Scientific Toys, Ltd. ("Respondent"), produce the following documents and/or tangible things for inspection and copying at the offices of Eckert Seamans Cherin & Mellott, LLC, Two Liberty Place, 50 South 16th Street, 22nd floor, Philadelphia, PA 19102 within thirty (30) days of the date of service of this First Request.

The Requests shall be answered in accordance with the Instructions and Definitions set forth below. The full text of the Instructions and Definitions shall be deemed incorporated by reference into each Request.

**INSTRUCTIONS AND DEFINITIONS**

1. Produce all documents in a form that renders the documents susceptible to copying. Produce all documents as they are kept in the usual course of business or organized and labeled to correspond to the following Requests.
2. If you are unable to comply fully with any Request herein, comply to the extent possible and explain why full compliance is not possible.

3. If any requested document or thing is unavailable because it has been destroyed, identify it (for documents, by date, author, addressee, signatory, subject and length); state when it was destroyed and why; and identify the person who ordered it destroyed.

4. All Requests are directed to material in your possession, custody or control, or within the possession, custody or control of your agents, servants, employees, related companies and attorneys. They are also directed to those firms, corporations, partnerships, or trusts that you control, and to material in the possession, custody or control of employees, agents, next friends, trustees, guardians and representatives of such entities.

5. Any requested material that is withheld on the basis of a claim of privilege, work product, or any other ground is to be identified in writing by title, addressee, addresser, date, topic covered, and length. Additionally, Respondent shall provide a statement of the ground alleged for withholding each such document and shall identify all persons who have or have had possession, custody, or control of the document (or any portions thereof).

6. These Requests are deemed to be continuing. Your attention is also called to Rule 26(e)(2) of the Federal Rules of Civil Procedure, which provides:

A party is under a duty seasonably to amend a prior response to an interrogatory, request for production, or request for admission if the party learns that the response is in some material respect incomplete or incorrect and if the additional or corrective information has not otherwise been made known to the other parties during the discovery process or in writing.

7. The definitions set out in Petitioner's First Set of Interrogatories are incorporated herein by reference.

### **REQUESTS FOR PRODUCTION**

1. All documents which embody, refer or relate to the selection of the Respondent's Mark.

2. All documents which embody, refer or relate to each trademark search done by or on behalf of Respondent relating to Respondent's Mark and any mark or name that begins with "EZ", including all references noted on the searches.
3. All documents which embody, refer or relate to market research conducted by or on behalf of Respondent directed to Respondent's mark and any mark or name which begins with "EZ".
4. All documents which embody, refer or relate to the first use of Respondent's Mark.
5. Documents sufficient to identify the gross sales of toy trains under Respondent's Mark on an annual basis.
6. Documents sufficient to identify each manner in which Respondent's Mark is used, including but not limited to product spec sheets, user manuals, packaging, labels and point of sale displays.
7. Documents sufficient to identify any changes in product packaging for Respondent's toy train sets since the date of first use of Respondent's mark.
8. Documents sufficient to identify all advertising and promotional media employed for toy trains sold under Respondent's Mark.
9. Documents sufficient to establish Respondent's annual expenditures for advertising of toy trains under Respondent's Mark.
10. Documents sufficient to identify each type of product distributed by Respondent under Respondent's Mark.
11. Documents sufficient to identify each type of product sold by Respondent or promoted by Respondent for use with goods sold under Respondent's Mark.

12. Documents sufficient to identify the channels of distribution for goods sold under Respondent's Mark.
13. Documents sufficient to identify the trade shows attended by Respondent.
14. Documents sufficient to show the trade shows where Respondent's goods are exhibited.
15. Documents sufficient to show the trade publications that Respondent receives.
16. All license agreements directed to Respondent's Mark.
17. Documents sufficient to establish the price points for the goods sold under Respondent's Mark.
18. Documents sufficient to identify each third party use known to Respondent of any mark that contains or comprises the term "EZ" or any phonetic equivalent for toy trains and other toy vehicles.
19. All documents containing and/or discussing complaints received by Respondents regarding the toy train products of Respondent.
20. All documents containing and/or discussing complaints received by Respondents regarding the toy train products of any company.

Dated: 4/18/11

By: Tashia Bunch Henderson  
Roberta Jacobs-Meadway  
Tashia A. Bunch Henderson  
Eckert Seamans Cherin & Mellott, LLC  
1717 Pennsylvania Avenue, NW  
12<sup>th</sup> Floor  
Washington, DC 20006  
(202) 659-6675

ATTORNEYS FOR PETITIONER

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Petitioner's First Request for Documents and Things to Respondent was served on counsel for the Respondent on the date listed below via first class mail:

Chester Rothstein, Esquire  
AMSTER ROTHSTEIN & EBENSTEIN LLP  
90 PARK AVENUE  
NEW YORK, NY 10016  
UNITED STATES  
ptodocket@arelaw.com, crothstein@arelaw.com

Dated: \_\_\_\_\_

4/18/11

Tashia Bunch Henderson

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

BACHMANN INDUSTRIES, INC.,	:	
	:	
Petitioner,	:	
	:	
v.	:	Cancellation No.: 92053426
	:	
SCIENTIFIC TOYS, LTD.,	:	
	:	
Respondent.	:	
	:	

**PETITIONER'S FIRST REQUEST FOR ADMISSIONS TO RESPONDENT**

Bachmann Industries, Inc. ("Petitioner"), by counsel and pursuant to Trademark Rule 2.120, and in accordance with Rule 36, Fed. R. Civ. P., requests Respondent, Scientific Toys, Ltd. to admit the truth of the following facts within thirty (30) days after service of this document. If any matter is denied, state the ground(s) for the denial. If Respondent denies the truth of any of the following statements, and Petitioner proves the truth of the matter, Petitioner may request an order requiring Respondent to pay Petitioner's reasonable expenses incurred in making that proof, including reasonable attorney's fees, in accordance with Rule 37(c), Fed.R.Civ.P.

The Definitions set out in Petitioner's First Set of Interrogatories are incorporated herein by reference.

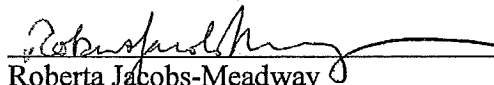
**REQUESTS FOR ADMISSION**

1. Respondent has not sold and does not sell any EZTEC trains or train sets in the U.S. other than those specifically identified in SI0000437.
2. Respondent does not promote or advertise its EZTEC trains or train sets directly to retail purchasers.

3. Respondent advertises and offers for sale its EZTEC trains and train sets on the Internet.
4. No train or train set sold by Respondent bears the EZTEC mark on the train.
5. The images displayed in SI0000438-442 are not the commercial packaging for any of Respondent's products.
6. The images displayed in SI0000438-442 are illustrations, not photographs, of product packaging.
7. Respondent's annual gross sales in the U.S. from 1998 through 2010 for EZTEC trains accessories such as train tracks were less than USD \$300,000.
8. Respondent's annual gross sales in the U.S. from 1998 through 2010 for EZTEC battery operated train sets were less than USD \$18,000,000.
9. Respondent's annual gross sales in the U.S. from 1998 through 2010 for EZTEC radio controlled train sets were less than USD \$29, 250,000.

Respectfully submitted,

Date: October 27, 2011

  
Roberta Jacobs-Meadway  
Jay K. Meadway  
Jessica Bae  
Eckert Seamans Cherin & Mellott, LLC  
Two Liberty Place  
50 South 16th Street – 22nd Floor  
Philadelphia, PA 19102  
(215) 851-8400  
[rjacobsmeadway@eckertseamans.com](mailto:rjacobsmeadway@eckertseamans.com)

**Attorneys for Petitioner  
Bachmann Industries, Inc.**



CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of PETITIONER'S FIRST REQUEST FOR ADMISSIONS was served on the attorney of record in this matter via electronic mail and Federal Express on the date indicated below.

Chester Rothstein, Esquire  
Neil Zipkin, Esquire  
Amster, Rothstein & Ebenstein, LLP  
90 Park Avenue  
New York, NY 10016-1301  
crothste@ARELAW.com

Date:

10-27-11

Mary G. Brownhofer

**BACHMANN INDUSTRIES, INC.,**

Y.

Respondent.

**Cancellation No.: 92053426**

Bachmann Industries, Inc. (“Petitioner”), by counsel and pursuant to Trademark Rule 2.120, and in accordance with Rule 33, Fed. R. Civ. P., requests Respondent, Scientific Toys, Ltd. (“Respondent”), answer the following Interrogatories in writing and under oath, subject to the penalties of perjury, within thirty days of the date of service hereof.


## INTERROGATORIES

20. State whether any of the individuals identified in Respondent's initial disclosures will be in the U.S. between now and January 9, 2012, and if so, state who, when, and where.
21. Identify each and every type of train, train set, and train accessory sold in the U.S. with Respondent's EZTEC mark on the product or on the product packaging, including the name of the product, the SKU, and the manufacturer's suggested retail price.
22. For each item identified in Interrogatory No. 21 above, identify when it was first offered for sale in the U.S., and if applicable, when it was discontinued.

23. Identify all brand names, other than EZTEC, under which Respondent sells trains, train sets, or train accessories.

Respectfully submitted,

Date: October 27, 2011

  
Roberta Jacobs-Meadway  
Jay K. Meadway  
Jessica Bae  
Eckert Seamans Cherin & Mellott, LLC  
Two Liberty Place  
50 South 16th Street – 22nd Floor  
Philadelphia, PA 19102  
(215) 851-8400  
[rjacobsmeadway@eckertseamans.com](mailto:rjacobsmeadway@eckertseamans.com)

**Attorneys for Petitioner  
Bachmann Industries, Inc.**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of Petitioner's First Request for Admissions was served on the attorney of record in this matter via electronic mail and Federal Express on the date indicated below.

Chester Rothstein, Esquire  
Neil Zipkin, Esquire  
Amster, Rothstein & Ebenstein, LLP  
90 Park Avenue  
New York, NY 10016-1301  
crothste@ARELAW.com

Date: 10-27-11

Mary P. Breenhofer

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

<hr/> BACHMANN INDUSTRIES, INC.,	:	
	:	
Petitioner,	:	
	:	
v.	:	Cancellation No.: 92053426
	:	
SCIENTIFIC TOYS, LTD.,	:	
	:	
Respondent.	:	
<hr/>	:	

**PETITIONER'S SECOND REQUEST FOR DOCUMENTS AND THINGS**

Bachmann Industries, Inc. ("Petitioner"), by counsel and pursuant to Trademark Rule 2.120, and in accordance with Rule 34, Fed. R. Civ. P., requests Respondent, Scientific Toys, Ltd. ("Respondent"), produce the following documents and/or tangible things for inspection and copying at the offices of Eckert Seamans Cherin & Mellott, LLC, Two Liberty Place, 50 South 16<sup>th</sup> Street, 22<sup>nd</sup> floor, Philadelphia, PA 19102, within thirty days of the date of service hereof.

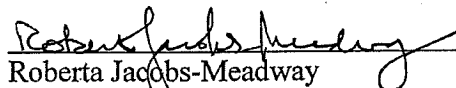
The Instructions and Definitions set out in Petitioner's First Request for Documents and Things are incorporated herein by reference.

**REQUEST**

21. Photographs of the commercial packaging for each type of train, train set, and train set accessory that that bears Respondent's EZTEC mark, sufficient to clearly show the product, the product packaging, and the mark printed on the product or product packaging.

Respectfully submitted,

Date: October 27, 2011



Roberta Jacobs-Meadway

Jay K. Meadway

Jessica Bae

Eckert Seamans Cherin & Mellott, LLC

Two Liberty Place

50 South 16th Street – 22nd Floor

Philadelphia, PA 19102

(215) 851-8400

[rjacobsmeadway@eckertseamans.com](mailto:rjacobsmeadway@eckertseamans.com)

---

**Attorneys for Petitioner  
Bachmann Industries, Inc.**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of Petitioner's First Request for Admissions was served on the attorney of record in this matter via electronic mail and Federal Express on the date indicated below.

Chester Rothstein, Esquire  
Neil Zipkin, Esquire  
Amster, Rothstein & Ebenstein, LLP  
90 Park Avenue  
New York, NY 10016-1301  
crothste@ARELAW.com

Date: 10-27-11

Mary P. Breenhofer

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

BACHMANN INDUSTRIES, INC.,	:	
Petitioner,	:	
v.	:	Cancellation No.: 92053426
SCIENTIFIC TOYS, LTD.,	:	
Respondent.	:	

**PETITIONER'S SECOND REQUEST FOR ADMISSIONS TO RESPONDENT**

Bachmann Industries, Inc. ("Petitioner"), by counsel and pursuant to Trademark Rule 2.120, and in accordance with Rule 36, Fed. R. Civ. P., requests Respondent, Scientific Toys, Ltd. to admit the truth of the following facts within thirty (30) days after service of this document. If any matter is denied, state the ground(s) for the denial. If Respondent denies the truth of any of the following statements, and Petitioner proves the truth of the matter, Petitioner may request an order requiring Respondent to pay Petitioner's reasonable expenses incurred in making that proof, including reasonable attorney's fees, in accordance with Rule 37(c), Fed.R.Civ.P.

The Definitions set out in Petitioner's First Set of Interrogatories are incorporated herein by reference.

**REQUESTS FOR ADMISSION**

1. Respondent has no knowledge of any actual use in commerce of the mark "E Z 2 DO" which is the subject of U.S. Trademark Registration Number 1,768,157.
2. Respondent has no knowledge of any actual use in commerce of the mark "E Z 2 DO" which is the subject of U.S. Trademark Registration Number 1,832,821.



3. Respondent has no knowledge of any actual use in commerce of the mark "EZ2DO" which is the subject of U.S. Trademark Registration Number 3,188,607.

4. Respondent has no knowledge of any actual use in commerce of the mark "E-Z OFF MAKE-UP" which is the subject of U.S. Trademark Registration Number 1,205,865.

5. Respondent has no knowledge of any actual use in commerce of the mark "E-Z OFF MAKE-UP" which is the subject of U.S. Trademark Registration Number 1,558,186.

6. Respondent has no knowledge of any actual use in commerce of the mark "EASY-BAKE" which is the subject of U.S. Trademark Registration Number 1,083,658.

7. Respondent has no knowledge of any actual use in commerce of the mark "EAZY-BAKE" which is the subject of U.S. Trademark Registration Number 1,243,771.

8. Respondent has no knowledge of any actual use in commerce of the mark "E-Z CRAPS" which is the subject of U.S. Trademark Registration Number 1,784,258.

9. Respondent has no knowledge of any actual use in commerce of the mark "EZ RYDER" which is the subject of U.S. Trademark Registration Number 1,764,658.

10. Respondent has no knowledge of any actual use in commerce of the mark "EZ2B" which is the subject of U.S. Trademark Registration Number 1,895,185.

11. Respondent has no knowledge of any actual use in commerce of the mark "E-Z GRIP" which is the subject of U.S. Trademark Registration Number 3,332,780.

12. Respondent has no knowledge of any actual use in commerce of the mark "E-Z MACHINES" which is the subject of U.S. Trademark Registration Number 3,938,668.

13. Respondent has no knowledge of any actual use in commerce of the mark "E-Z READ (& Design)" which is the subject of U.S. Trademark Registration Number 3,457,225.

14. Respondent has no knowledge of any actual use in commerce of the mark "EASY KIT" which is the subject of U.S. Trademark Registration Number 3,088,872.

15. Respondent has no knowledge of any actual use in commerce of the mark "EASY KIT (& Design)" which is the subject of U.S. Trademark Registration Number 3,105,755.

16. Respondent has no knowledge of any actual use in commerce of the mark "EASY SHOOTER" which is the subject of U.S. Trademark Registration Number 3,055,646.

17. Respondent has no knowledge of any actual use in commerce of the mark "EZ TWIST" which is the subject of U.S. Trademark Registration Number 2,759,254.

18. Respondent has no knowledge of any actual use in commerce of the mark "EZ-FORT" which is the subject of U.S. Trademark Registration Number 3,834,347.

19. Respondent has no knowledge of any actual use in commerce of the mark "E-Z-TOSS" which is the subject of U.S. Trademark Registration Number 3,939,547.

20. Respondent has no knowledge of any actual use in commerce of the mark "EZY ROLLER" which is the subject of U.S. Trademark Registration Number 3,328,644.

21. Respondent has no knowledge of any actual use in commerce of the mark "EZ BUMP" which is the subject of U.S. Trademark Registration Number 3,139,849.

22. Respondent has no knowledge of any actual use in commerce of the mark "EZ GRASP" which is the subject of U.S. Trademark Registration Number 2,924,006.

23. Respondent has no knowledge of any actual use in commerce of the mark "EASY MONEY" which is the subject of U.S. Trademark Registration Number 336,119.

24. Respondent has no knowledge of any actual use in commerce of the mark "EASY TOUCHDOWN" which is the subject of U.S. Trademark Registration Number 3,851,196.

25. Respondent has no knowledge of any actual use in commerce of the mark "E-Z AS ABC" which is the subject of U.S. Trademark Registration Number 2,691,693.

26. Respondent has no knowledge of any actual use in commerce of the mark "E-Z SPIN FREESTYLE DISCS (& Design)" which is the subject of U.S. Trademark Registration Number 3,522,315.

27. Respondent has no knowledge of any actual use in commerce of the mark "EASY FILL & TIE" which is the subject of U.S. Trademark Registration Number 3,985,034.

28. Respondent has no knowledge of any actual use in commerce of the mark "EASY GRIP PEGS" which is the subject of U.S. Trademark Registration Number 2,372,456.

29. Respondent has no knowledge of any actual use in commerce of the mark "EASY CAST KIT" which is the subject of U.S. Trademark Registration Number 3,762,702.

30. Respondent has no knowledge of any actual use in commerce of the mark "E-Z FLYERS" which is the subject of U.S. Trademark Registration Number 1,150,280.

31. Respondent has no knowledge of any actual use in commerce of the mark "E-Z LAUNCH" which is the subject of U.S. Trademark Registration Number 3,140,436.

32. Respondent has no knowledge of any actual use in commerce of the mark "EASY MARQUETRY" which is the subject of U.S. Trademark Registration Number 3,533,662.

33. Respondent has no knowledge of any actual use in commerce of the mark "EASY HINGES" which is the subject of U.S. Trademark Registration Number 1,628,430.

34. Respondent has no knowledge of any actual use in commerce of the mark "EASY-MAKE CRAFTS" which is the subject of U.S. Trademark Registration Number 3,718,363.

35. Respondent has no knowledge of any actual use in commerce of the mark "EZ-SET" which is the subject of U.S. Trademark Registration Number 3,145,232.

36. Respondent has no knowledge of any actual use in commerce of the mark "EEZY PEEZY" which is the subject of U.S. Trademark Registration Number 3,671,299.

37. Respondent has no knowledge of any actual use in commerce of the mark "E-Z BOUNCER" which is the subject of U.S. Trademark Registration Number 2,822,973.

38. Respondent has no knowledge of any actual use in commerce of the mark "EASY SHOT LAUNCHER" which is the subject of U.S. Trademark Registration Number 3,465,704.

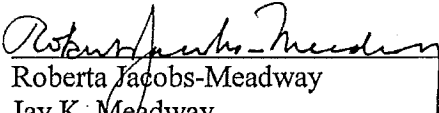
39. Respondent has no knowledge of any actual use in commerce of the mark "ENGINEER EASYTOYS" which is the subject of U.S. Trademark Registration Number 2,725,345.

40. Respondent has no knowledge of any actual use in commerce of the terms "EASY," "E-Z," "EZ," "EAZY," or "EEZY" as a mark or a component of a mark by third parties for toy or model trains.

41. Respondent has no knowledge of any actual use in commerce of the terms "EASY," "E-Z," "EZ," "EAZY," or "EEZY" as a mark or a component of a mark by third parties for toy or model vehicles.

Respectfully submitted,

Date: April 6, 2011

  
Roberta Jacobs-Meadway  
Jay K. Meadway  
Jessica Bac  
Eckert Seamans Cherin & Mellott, LLC  
Two Liberty Place  
50 South 16th Street – 22nd Floor  
Philadelphia, PA 19102  
(215) 851-8400  
[rjacobsmeadway@eckertseamans.com](mailto:rjacobsmeadway@eckertseamans.com)

**Attorneys for Petitioner  
Bachmann Industries, Inc.**

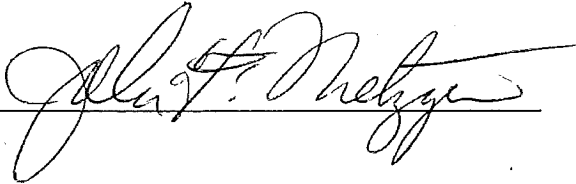
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of PETITIONER'S SECOND REQUEST FOR ADMISSIONS was served on the attorney of record in this matter via electronic mail and Federal Express on the date indicated below.

Chester Rothstein, Esquire  
Neil Zipkin, Esquire  
Amster, Rothstein & Ebenstein, LLP  
90 Park Avenue  
New York, NY 10016-1301  
crothste@ARELAW.com

Date:

April 6, 2012

A handwritten signature in cursive script, appearing to read "Chester Rothstein", is written over a horizontal line.

# **EXHIBIT B**



Eckert Seamans Cherin & Mellott, LLC  
Two Liberty Place  
50 South 16th Street  
22nd Floor  
Philadelphia, PA 19102

TEL 215 851 8400  
FAX 215 851 8383  
www.eckertseamans.com

Roberta Jacobs-Meadway  
215.851.8522  
rjacobsmeadway@eckertseamans.com

June 13, 2011

*Via Electronic Mail (nzipkin@arelaw.com)*

Neil M. Zipkin  
Amster, Rothstein & Ebenstein LLP  
90 Park Avenue  
New York, New York 10016

Re: Bachmann Industries, Inc. v. Scientific Toys, Ltd.  
Our File: 297775-00247

Dear Neil:

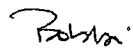
This letter is in reference to the responses to Bachmann's Interrogatories and Document Requests.

The response to Interrogatories No. 12 and 13, is a refusal to respond until a protective order is entered into by the parties. Additionally, there is a refusal to provide requested documents responsive to Document Requests No. 5 and 17 until a protective order is entered into.

The refusal to respond and produce documents is not well-founded. Pursuant to 37 CFR §2.116(g), the Trademark Trial and Appeal Board Standard Protective Order is in effect unless otherwise agreed to by the parties. As the parties have not otherwise agreed, the Standard Protective Order is in effect.

We request supplementation of the above identified responses within ten days..

Very truly yours,

  
Roberta Jacobs-Meadway

RJM/mtb  
Enclosure  
cc: Bachmann Industries (via electronic mail)





Eckert Seamans Cherin & Mellott, LLC  
Two Liberty Place  
50 South 16th Street  
22nd Floor  
Philadelphia, PA 19102

TEL 215 851 8400  
FAX 215 851 8383  
www.eckertseamans.com

Roberta Jacobs-Meadway  
215.851.8522  
rjacobsmeadway@eckertseamans.com

June 24, 2011

*Via Electronic Mail (nzipkin@arelaw.com )*

Neil M. Zipkin, Esq.  
Amster, Rothstein & Ebenstein LLP  
90 Park Avenue  
New York, New York 10016

Re: Bachmann Industries, Inc. v. Scientific Toys, Ltd.  
Our File: 297775-00247

Dear Neil:

This letter is in reference to the responses to Bachmann's Document Requests.

Scientific Toy's responses to Document Request Nos. 12 through 15 are unresponsive.

Document Request No. 12 asks Scientific Toys to produce documents sufficient to identify the channels of distribution for the goods sold under Respondent's mark. Scientific Toys has responded that there are no such documents. We find this response not credible. Please confirm that Scientific Toys will not rely on any documents which evidence the trade channels through which its products travel or produce the responsive documents.

Document Requests Nos. 13 and 14 ask Scientific Toys to produce documents to sufficient to identify the trade shows that Scientific Toys attends and the goods exhibited. Scientific Toys has responded that there are no such documents. This answer contradicts Interrogatory No. 7, in which Scientific Toys responded that the goods are promoted at trade shows. Please confirm that Scientific Toys will not rely on any documents which refer or relate to trade show attendance or produce documents which identify the trade shows Scientific Toys has attended.

Document Request No. 15 asks for documents sufficient to identify the trade publications that Scientific Toys receives. Scientific Toys responded that there are no such documents. Please confirm that Scientific Toys will not rely on any documents which are or are taken from any trade publications it receives, or produce documents sufficient to identify the trade publications received.

**ECKERT  
SEAMANS**

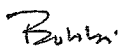
Neil M. Zipkin, Esq.

June 24, 2011

Page 2

We request your response and supplementation of the above identified document requests within ten days.

Very truly yours,

  
Roberta Jacobs-Meadway

RJM/mtb

Enclosure

cc: Bachmann Industries (via electronic mail)



Eckert Seamans Cherin & Mellott, LLC  
Two Liberty Place  
50 South 16th Street  
22nd Floor  
Philadelphia, PA 19102

TEL 215 851 8400  
FAX 215 851 8383  
www.eckertseamans.com

Roberta Jacobs-Meadway, Esq.  
215-851-8522  
rjacobsmeadway@eckertseamans.com

August 23, 2011

**Via Electronic Mail (crothste@ARELAW.com)**

Chester Rothstein, Esquire  
Amster, Rothstein & Ebenstein, LLP  
90 Park Avenue  
New York, NY 10016-1301

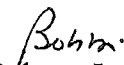
Re: Scientific Toys, Ltd./ Bachmann Industries, Inc.  
Your file: 75925-0120  
Our file: 297775-00247

Dear Chester:

Please let this letter serve as a reminder that we have yet to receive documents in response to our request served on April 18, 2011.

We expect to receive all non-privileged responsive documents by close of business on Monday, August 29, 2011.

Very truly yours,

  
Roberta Jacobs-Meadway

RJM/mtb

# **EXHIBIT C**

**ECKERT  
SEAMANS**  
ATTORNEYS AT LAW

Eckert Seamans Cherin & Mellott, LLC  
Two Liberty Place  
50 South 16<sup>th</sup> Street, 22<sup>nd</sup> Floor  
Philadelphia, PA 19102

TEL 215 851 8400  
FAX 215 851 8383  
www.eckertseamans.com

Jessica K. Bae, Esq.  
215 851 8528  
jbac@eckertseamans.com

April 5, 2012

*Via Electronic Mail (nzipkin@arelaw.com; crothste@arelaw.com)*

Neil M. Zipkin, Esq.  
Chester Rothstein, Esq.  
Amster, Rothstein & Ebenstein LLP  
90 Park Avenue  
New York, New York 10016


Re: Bachmann Industries, Inc. v. Scientific Toys, Ltd.  
Our File: 297775-00247  
Your File: 75925-0120

Dear Neil and Chester:

Please let this letter serve as a reminder that we have yet to receive responses to our First Requests for Admissions, Second Set of Document Requests or Second Set of Interrogatories (copies enclosed), served on October 27, 2011.

We expect that responses to these requests will be provided in a timely manner.

Very truly yours,



Jessica K. Bae

JKB/lg  
Enclosure

**ECKERT  
SEAMANS**  
ATTORNEYS AT LAW

Roberta Jacobs-Meadway  
215.851.8522  
rjacobsmeadway@eckertseamans.com

April 6, 2012

Via Electronic Mail (nzipkin@arelaw.com; crothste@arelaw.com)

Neil M. Zipkin, Esq.  
Chester Rothstein, Esq.  
Amster, Rothstein & Ebenstein LLP  
90 Park Avenue  
New York, New York 10016

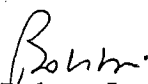
Re: Bachmann Industries, Inc. v. Scientific Toys, Ltd.  
Our File: 297775-00247  
Your File: 75925-0120

Dear Neil and Chester:

Enclosed is a copy of Petitioner's Second Requests for Admission.

Considering the Board's decision denying each party's motion for summary judgment and setting a date of April 9, 2012 for the close of discovery, we request that you supplement Respondent's discovery responses in a timely manner, and we propose to do likewise.

Very truly yours,


  
Roberta Jacobs-Meadway

RJM/jfm  
Enclosure

# **EXHIBIT D**



Bridget Heffernan  
Labutta/ESCM  
05/14/2012 10:00 AM

To Neil Zipkin <Nzipkin@ARELAW.com>  
cc Chester Rothstein <crothstein@ARELAW.com>, Jennifer  
Doran <jdoran@ARELAW.com>, John  
Metzger/ESCM@ESCM, Judith Steinsapir  
<jsteinsapir@ARELAW.com>, Mary  
Boesenhofer/ESCM@ESCM, Roberta  
Jacobs-Meadway/ESCM@ESCM  
bcc  
Subject RE: Bachmann Industries v. Scientific Toys, Ltd.: Second  
Request for Admissions 

Neil,

As Bobbi mentioned in her email below, we will agree to suspend these proceedings once we receive Scientific's responses to all outstanding discovery.

The responses to Bachmann's Second Set of Document Requests and Second Set of Interrogatories are now past due. Please get those to us as soon as possible.

We acknowledge receipt of Scientific's responses to Bachmann's First and Second Requests for Admissions. We are reviewing them now and will follow up with any questions/concerns we might have.

---

Bridget Heffernan Labutta, Esq.  
Eckert Seamans Cherin & Mellott LLC

Two Liberty Place • 50 South 16th Street, 22nd Floor • Philadelphia, PA 19102  
Direct: 215.851.6623 • Fax: 215.851.8383 • Email: blabutta@eckertseamans.com

Roberta Jacobs-Meadway	Roberta Jacobs-Meadway/ESCM	05/11/2012 04:21:48 PM
------------------------	-----------------------------	------------------------



**ECKERT  
SEAMANS**  
www.eckertseamans.com


Roberta  
Jacobs-Meadway/ESCM

05/16/2012 11:46 AM

To Neil Zipkin <Nzipkin@ARELAW.com>

cc Bridget Heffernan Labutta/ESCM@ESCM, Chester Rothstein  
<crothstein@ARELAW.com>, Jennifer Doran  
<jdoran@ARELAW.com>, John Metzger/ESCM@ESCM,  
Judith Steinsapir <jsteinsapir@ARELAW.com>, Mary  
Boesenhofer/ESCM@ESCM

bcc

Subject RE: Bachmann Industries v. Scientific Toys, Ltd.: Second  
Request for Admissions 

We will review and respond.

You have not yet told us when you propose to provide us with the responses which are past due.

If we do not have the responses by the close of business on Friday, we will move to compel.

We need to have the responses to prepare the pretrial disclosures.

Roberta Jacobs-Meadway  
Eckert Seamans  
Two Liberty Place  
50 South 16th Street  
22d floor  
Philadelphia PA 19102  
tel 215 851 8522  
fax 215 851 8383  
rjacobsmeadway@eckertseamans.com

Neil Zipkin

Neil Zipkin <Nzipkin@ARELAW.com>

05/16/2012 11:43:13 AM